

June 27, 1995  
REPORT TO THE HONORABLE  
MAYOR AND CITY COUNCIL

FAVORABLE COURT DECISION RELATING TO TAXATION OF CITY-OWNED  
PROPERTY IN  
THE COUNTY - CITY AND COUNTY OF SAN FRANCISCO V. COUNTY OF SAN  
MATEO

In 1994, we joined in an amicus brief in a case challenging the method by which the City of San Francisco's taxable land was being assessed. We retained attorney John Doherty of Lafayette, California, for an almost nominal sum of \$1,000, to prepare and file the amicus brief. San Francisco was basically not receiving the "valuation roll back" benefits of Proposition 13 on land it owned outside its city limits. Under the California constitution land owned by a city outside its jurisdictional boundaries is generally taxable. The issue was: Should such city-owned land be assessed at its full fair market value, or, should it be taxed like private property under Proposition 13, with increases of no more than two percent per year.

The County of San Diego has utilized a similar interpretation of the constitution to that interpretation challenged in the San Francisco case, and assesses such property at its full fair market value.

On Thursday, June 22, the California Supreme Court determined in favor of the City of San Francisco. The City of San Francisco and other cities in California, including San Diego, may now file a claim for a return of a significant, but as yet undetermined, sum from the County for what now has been determined to be overcharges in property taxes. The City's last annual property tax payment was about \$266,000. A substantial portion of that amount, plus similar portions for the three preceding years, will be refundable.

The vast majority of the land involved is owned by the Water Utility and, therefore, the majority of the funds the City should receive back from the County will go into the Water Utility fund.

A follow-up report, as soon as the Real Estate Assets Department computes the amount of the proper refund, will be provided to the City Council.

Respectfully submitted,  
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City Attorney

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RC-95-18